



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2022-0074; Notice 1]

Baby Trend, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Baby Trend, Inc., (BT), has determined that certain BT Hybrid 3-in-1 Combination Booster Seat child restraint systems (CRSs) do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 213, *Child Restraint Systems*. BT filed an original noncompliance report dated July 6, 2022. BT subsequently petitioned NHTSA on August 1, 2022, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of BT's petition.

DATES: Send comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal Holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <https://www.regulations.gov/> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477-78).

FOR FURTHER INFORMATION CONTACT: Kelley Adams-Campos, Safety Compliance Engineer, NHTSA, Office of Vehicle Safety Compliance, kelly.adamscampos@dot.gov, (202) 366-7479.

SUPPLEMENTARY INFORMATION:

I. Overview:

BT determined that certain BT Hybrid 3-in-1 Combination Booster Seat CRSs do not fully comply with paragraph S5.4.1.2(a) of FMVSS No. 213, *Child Restraint Systems* (49 CFR 571.213).

BT filed an original noncompliance report dated July 6, 2022, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. BT petitioned NHTSA on August 1, 2022, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of BT's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Child Restraint Systems Involved:

Approximately 101,361 BT Hybrid 3-in-1 Combination Booster Seat CRSs, manufactured from December 6, 2021, to June 6, 2022,¹ are potentially involved:

III. Noncompliance:

BT explains that the lower anchor webbing in the subject CRSs failed the minimum breaking strength when tested in accordance with S5.1 of FMVSS No. 209,² referenced in

¹ As reported in BT's July 6, 2022, Part 573 filing

² In its petition, BT refers to the test in S5.1 of FMVSS No. 209 as tensile

FMVSS No. 213 S5.4.1.2(a). Specifically, the breaking³ strength of the lower anchor webbing of the Lower Anchors and Tethers for CHildren (LATCH⁴) system in the subject CRSs was 13,926 Newtons (N), 13,940 N, and 14,087 N when tested by NHTSA.

IV. Rule Requirements:

Paragraph S5.4.1.2(a) of FMVSS No. 213 includes the requirements relevant to this petition. The webbing of belts provided with a child restraint system and used to attach the system to the vehicle must have a minimum breaking strength for new webbing of not less than 15,000 N, including the tether and lower anchorages of a child restraint anchorage system, when tested in accordance with S5.1 of FMVSS No. 209. “New webbing” means webbing that has not been exposed to abrasion, light or micro-organisms as specified elsewhere in FMVSS No. 213.

V. Summary of BT’s Petition:

The following views and arguments presented in this section, “V. Summary of BT’s Petition,” are the views and arguments provided by BT. They have not been evaluated by the Agency and do not reflect the views of the Agency. BT describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Upon receiving an information request from NHTSA on June 6, 2022, regarding the subject noncompliance, BT states that production and distribution of the subject CRSs were halted, and BT began an investigation. BT states that, as part of its investigation, it conducted dynamic sled testing, webbing testing and examined internal processes to determine the root cause of the noncompliance. As a result of its investigation, BT found that the wrong webbing was installed in a portion of the subject CRSs, but BT believes, through its analysis of existing and new test data, that the subject noncompliance is inconsequential to motor vehicle safety.

³ In its petition, BT refers to breaking as tensile

⁴ “LATCH” refers to the child restraint anchorage system that FMVSS 225, “Child restraint anchorage systems,” requires to be installed in motor vehicles. Industry and advocates have developed the term “LATCH” to refer to Standard 225’s child restraint anchorage system.

BT claims that FMVSS No. 213 dynamic sled testing ensures the structural integrity of the subject CRSs and that this is supported by NHTSA's November 2, 2020, notice of proposed rulemaking⁵ regarding FMVSS No. 213. In its petition, BT questions "the utility of considering the webbing strength tests in isolation rather than the integrity of the LATCH system as required under FMVSS 213." BT believes the webbing tests specified in FMVSS No. 213 have utility in safety "only in the context of maintaining strength of the webbing with wear and tear of the child restraint following years of use and asserts that the unabraded webbing strength test is not necessary to ensure the structural integrity of a CRS.

BT states that it conducts, in addition to the dynamic sled testing required by FMVSS No. 213, dynamic sled testing through Consumer's Union (CU), on child restraints produced by each of its factories. BT contends that if NHTSA previously found the dynamic sled testing at 48 kph to be sufficient to ensure the structural integrity of a CRS, BT's additional testing is also similarly sufficient.

The CU dynamic testing, as BT explains, has important differences from that required by FMVSS No. 213. First, the test is conducted at 56 kph whereas the FMVSS No. 213 test is conducted at 48 kph. Second, the bench used is derived from a vehicle seat, providing "a boundary condition for LATCH attachment and seat cushion-to-CRS interaction." Finally, the CU test protocol includes a structure to represent the seat in front of the CRS seat position, which, BT claims, provides a "clear tell-tale" of failure in any way of the LATCH lower anchor belt in adequately restraining the CRS and its occupant.

BT also claims that the minimum LATCH lower anchor webbing strength requirements of FMVSS No. 213 are unrealistic, based on dynamic crash testing it conducted on the subject CRSs using the same incorrect webbing used on the noncompliant CRSs that are the subject of this petition, and without attaching the CRS' tether to the tether anchor. This testing, as BT

⁵ Federal Motor Vehicle Safety Standards; Child Restraint Systems, Incorporation by Reference; 85 FR 69388 (November 2, 2020.)

explains, was conducted on the test bench proposed by NHTSA in the 2020 FMVSS No. 213 NPRM. Other test apparatus and conditions used in its testing were those either specified in FMVSS No. 213, and/or the current NPRM, or “widely accepted” as due care tests. For the tests BT conducted in the frontal direction, sled test speeds ranging from 57.1 kph to 63.9 kph were used. See the Table⁶ in BT’s petition for the parameters used in its testing. BT states that it is confident that its frontal sled testing conducted at “64 kph...encompasses all crashes including the most severe crashes” and that “at no time and in no test did the LATCH Lower Anchor webbing or belt system fail to perform its intended purpose of restraining the CRS.” BT also found “that at no time during any of these tests did the LATCH Lower Anchor webbing load exceed 5000 Newtons and, more importantly, come even close to the 15,000 Newton minimum threshold” required by FMVSS No. 213.

In its petition, BT shares a graphic⁷ to illustrate its beliefs for the minimum strength of various components in the LATCH system and points to examples where, “in the rare instances of failures of the LATCH system, the failures occurred in ...the LATCH lower anchor on the vehicle.” Thus, BT contends that the webbing is not the weak link in the LATCH lower anchor system, and that “any deficiencies with the strength of the LATCH Lower Anchor webbing would have been revealed in the dynamic sled tests of FMVSS 213.”

BT states that there is no evidence of webbing failure in any CRS in the real world, that it has never received a complaint, nor has any knowledge of, a webbing failure on any of its products in the real world.

BT concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

⁶ Section 3 of its petition

⁷ Section 5 of its petition

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject child restraints that BT no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve child restraint distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant child restraints under their control after BT notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

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